

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTOINE L. ARDDS,

Plaintiff,

v.

KENNETH MARTIN, et al.,

Defendants.

No. 2:20-cv-0133 TLN KJN P

ORDER

Plaintiff, a state prisoner, proceeds pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff's second amended complaint is before the court. As set forth below, those portions of the amended pleading that do not comply with the district court's July 19, 2022 order are stricken. The undersigned finds that plaintiff states potentially cognizable Eighth Amendment claims as to defendants Kieu, Lundgren, and Bogacs, who served on the IDTT committee.

Background

Defendants' motion for summary judgment was granted in part and denied in part, and plaintiff was granted leave to file a second amended complaint raising only Eighth Amendment claims based on those allegations set forth in grievance CHCF-HC-20-000548 against only those individuals who were part of the IDTT referenced therein. (ECF No. 47 at 2; see also ECF No. 43 at 23-24.) The grievance requested that the hearing officer review unit footage from August

27, 2019, through September 11, 2019. (ECF No. 36-4 at 66.) The grievance was dated September 12, 2019. (Id.)

Plaintiff has now filed a second amended complaint in which he identifies the members of the IDTT Committee referenced in grievance CHCF-HC-20-000548 as Kieu, Lundgren, and Bogacs. (ECF No. 48 at 8.) Only defendant Kieu has been served and appeared in this action.

Discussion

Despite the court's limiting order, plaintiff now alleges that defendants Martin and Martel are liable based on their supervisory roles, and contends that the grievance was sufficient to put prison officials on notice of plaintiff's allegations, reiterates his retaliation claims, attempts to add an ADA claim and refers to other grievances. Plaintiff claims that defendants Martel and Martin were ineffective and failed to hold employees or staff accountable, despite plaintiff's numerous grievances. (ECF No. 48 at 13-14.)

However, in resolving the motion for summary judgment on exhaustion grounds, the district court determined that this case is limited to the Eighth Amendment allegations raised in grievance CHCF-HC-20-000548 solely as to those individuals who were members of the IDTT committee. (ECF No. 43 at 23-24.) Defendants Martin and Martel were not members of the IDTT Committee referenced in plaintiff's appeal and therefore prison officials were not put on notice of plaintiff's claims against Martin and Martel through grievance CHCF-HC-20-000548.¹ In such grievance, plaintiff did not include any additional facts concerning supervisory personnel involvement or lack of action on their part concerning the alleged deprivation of mental health services by the IDTT Committee members. In his objections to the findings and recommendations addressing exhaustion, plaintiff did not object that such supervisory claims were omitted.

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¹ Indeed, after he filed the instant action plaintiff exhausted his claims as to defendant Martin in a different grievance, CHCF HC-19-002669, and the district court adopted this court's findings that plaintiff's amended complaint did not raise new claims and therefore plaintiff was required to have exhausted such claims before he filed the instant action. (See ECF No. 43 at 17-20.) Thus, plaintiff is required to pursue such claims against defendant Martin in a new action.

1 The district court determined what claims were exhausted through grievance CHCF-HC-
2 20-000548, and limited plaintiff's amended pleading to those claims raised solely as to the
3 members of the IDTT committee. Thus, the undersigned finds that plaintiff's second amended
4 complaint applies solely to those members of the IDTT involved in the Eighth Amendment
5 allegations raised in grievance CHCF-HC-20-000548, now identified as Kieu, Lundgren, and
6 Bogacs, as previously ordered, and strikes references to other defendants or claims not permitted
7 by the district court order (ECF No. 47).

8 Screening

9 The second amended complaint states potentially cognizable Eighth Amendment claims
10 for relief against defendants Kieu, Lundgren, and Bogacs pursuant to 42 U.S.C. § 1983 and 28
11 U.S.C. § 1915A(b). If the allegations of the second amended complaint are proven, plaintiff has a
12 reasonable opportunity to prevail on the merits of this action.

13 By separate order, the court will direct service of process on defendants Lundgren and
14 Bogacs. Defendant Kieu shall file a responsive pleading within twenty-one days. In light of the
15 above orders, defendants Kieu, Lundgren, and Bogacs are relieved of any obligation to respond to
16 plaintiff's allegations concerning retaliation or other putative claims not permitted by the district
17 court's order.

18 Conclusion

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. Pursuant to the district court's July 19, 2022 order, this action proceeds solely on
21 plaintiff's Eighth Amendment claims against members of the IDTT committee, identified by
22 plaintiff as defendants Kieu, Lundgren and Bogacs.

23 2. The court strikes plaintiff's references to defendants Martin and Martel and all other
24 claims not permitted by the district court's prior order (ECF No. 48), and defendants Kieu,
25 Lundgren and Bogacs are relieved of any obligation to respond thereto.

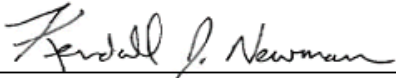
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1 3. Defendant Kieu shall file a responsive pleading within twenty-one days from the date
2 of this order.

3 Dated: November 18, 2022

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5 KENDALL J. NEWMAN
6 UNITED STATES MAGISTRATE JUDGE

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